

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIAM ANTHONY JONES,

Petitioner,

CASE NO. 1:15-CV-1338

v.

HON. ROBERT J. JONKER

JACK KOWALSKI,

Respondent.

ORDER APPROVING AND ADOPTING
PROPOSED FINDINGS OF FACT

The Sixth Circuit remanded this matter for the sole purpose of conducting “a factual inquiry into whether [Petitioner] Jones submitted a timely notice of appeal. *Jones v. Burt*, Case No. 20-1696, Order at 2 (6th Cir. Sept. 23, 2020). The matter is before the Court on Magistrate Judge Green’s Proposed Findings of Fact (ECF No. 56) and Plaintiff’s Objections (ECF No. 57). The Magistrate Judge recommended that the Court adopt the proposed findings of fact and determine that Petitioner Jones failed to timely submit a notice of appeal. (ECF No. 56, PageID.4018.)

Under the Federal Rules of Civil Procedure, where a party has objected to portions of a Magistrate Judge’s Report and Recommendation, “[t]he district judge . . . has a duty to reject the magistrate judge’s recommendation unless, on de novo reconsideration, he or she finds it justified.” 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE, § 3070.2, at 451 (3d ed. 2014). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Proposed Findings of Fact; and Petitioner's Objections. After de novo review, the Court finds that the Magistrate Judge's proposed findings of fact are correct and that Petitioner failed to timely submit a notice of appeal.

The Magistrate Judge carefully and thoroughly considered the evidentiary record, the parties' arguments, and the governing law. Plaintiff's objections do not address the Proposed Findings of Fact in any persuasive way. The objections primarily reiterate Plaintiff's factual allegations and amplify arguments Plaintiff has already made and the Magistrate Judge properly addressed. The Court's de novo review of the record confirms the accuracy of the Magistrate Judge's Proposed Findings of Fact. Petitioner Jones failed to timely submit a notice of appeal, just as the Magistrate Judge detailed.

ACCORDINGLY, IT IS ORDERED:

The Proposed Findings of Fact (ECF No. 56) are **APPROVED AND ADOPTED** as the Findings of Fact of the Court. The Court finds that Petitioner failed to submit a timely notice of appeal.

Dated: October 4, 2021

/s/ Robert J. Jonker
ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE